

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE REPEAL AND)
REENACTMENT OF SDCL 15-6-5(d))

RULE 00-1

A hearing having been held on February 17, 2000, at Pierre, South Dakota, relating to the repeal and reenactment of SDCL 15-6-5(d), and the Court having considered the proposed repeal and reenactment, the correspondence and oral presentations relating thereto, if any, and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-6-5(d) be and it is hereby repealed and reenacted to read in its entirety as follows:

15-6-5(d). Filing of papers - Originals - Facsimiles - Copies. The original of all papers, excluding briefs or memorandums of law thereof, served upon a party or presented to any court or judge in support of any application or motion and including the summons, all pleadings, notices, demands, offers, stipulations, affidavits, written motions and orders shall, if not filed before service, be filed with the court, together with proof of such service, forthwith upon such service. The foregoing requirement of filing applies to the notice of filing of an order and the notice of entry of a judgment together with proof of service thereof, both of which shall be filed forthwith; if not filed within ten days after service thereof, the time of service shall be deemed to be the date of filing of the notice and proof of service.

If papers are not to be served, they must be filed with the court at the time of their presentation to the court for any action or consideration.

Any facsimile of any paper or document shall have the same force and effect as the original. A certified copy of an original transmitted by facsimile transmission shall have the same force and effect as a certified copy of an original.

Rule 00-1

Any paper or document received by facsimile transmission by the clerk or court for filing may be refused upon notice to sender and determination by the clerk or court that filing of the paper or document by facsimile transmission is not time critical or in violation of these rules. For good cause, the court may require a person or sender to obtain permission before sending a facsimile transmission to the clerk or court. Briefs and other lengthy documents in support of matters filed with the clerk shall not be transmitted by facsimile transmission except by court permission.

Any facsimile shall be accompanied by a cover sheet which states the title of the document, case number, if any, number of pages, identity and voice telephone number of the sender. If sent directly to the court, there must be instructions as to filing therein in bold face type.

Filing shall be deemed complete when the facsimile is received by the clerk or court. Facsimile filings shall be accepted for filing until 4:30 o'clock p.m. on days when the clerk's office is open for business and the facsimile equipment is in operation. All facsimile filings shall be completed by 5 o'clock p.m. in accordance with § 15-6-6(a).

Within five business days after the date of the facsimile transmission, the sender shall file with the court the original document, a certificate stating that the original document is identical to the facsimile previously filed, and a ten dollar transmission fee for each document or one dollar per page, whichever is greater. The fee will be deposited into the state court automation fund.

Upon receipt of the original, the clerk shall note thereon the date and time received and the date and time that the facsimile transmission was received. Upon the filing of the original, the facsimile may be removed from the court file and the original substituted therefor. Thereafter, the original shall be deemed received as of the date and time of receipt of the facsimile transmission. If the original is not filed with the clerk within the time provided, the court may on its own motion and upon notice to the sender strike the facsimile from the file and so note on the register of actions of the court.

Failure to comply with any requirements of this rule shall, upon notice, authorize the court to apply other appropriate sanctions, including but not limited to, the striking of the paper or document received by facsimile transmission.

Rule 00-01

In the event of failure to file any paper required to be filed as herein specified, the adverse party upon proof of the omission so to file shall be entitled without notice to an order requiring such papers to be filed within a time to be specified in the order, and such order may likewise provide that upon such failure so to file such papers, the action or proceeding may be dismissed and that no new action or proceeding may be commenced without payment of reasonable terms to be fixed by the court.

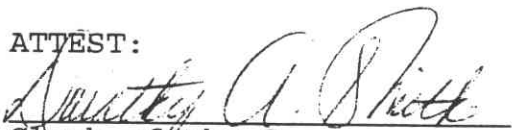
If any process, original pleading, or any other paper, be lost or withheld by any person, the court may authorize a copy thereof to be filed and used instead of the original.

IT IS FURTHER ORDERED that this rule shall become effective July 1, 2000.

DATED at Pierre, South Dakota, this 10th day of March, 2000.

BY THE COURT:

ATTEST:


Clerk of the Supreme Court
(SEAL)


Robert A. Miller, Chief Justice

**SUPREME COURT
STATE OF SOUTH DAKOTA
FILED**

MAR 10 2000


Clerk